

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

**FILED**  
MAR 19 2015  
*[Signature]*  
CLERK

<p>JUSTIN BIRDHORSE,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>United States of America,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">1:14-CV-1004-CBK</p> <p style="text-align: center;">ORDER DENYING PETITION FOR WRIT OF CORAM NOBIS</p>
--	---

Petitioner pleaded guilty to sexual abuse of a person incapable of consenting and was sentenced to 276 months custody. The United States Court of Appeals for the Eighth Circuit affirmed. United States v. Birdhorse, 701 F.3d 548 (8th Cir. 2012). Petitioner filed a motion to vacate, set aside, or correct sentence which was denied. Birdhorse v. United States, 2014 WL 1330904 (D.S.D. 2014). He filed a motion in the Eighth Circuit to file a second or successive habeas petition which motion is still under consideration. He filed in the district court a petition for a writ of error coram nobis to vacate his conviction and sentence, CIV 15-1018, which was denied. He has now filed a second petition for a writ of error coram nobis, dated the same date and in all respects a duplicate to the petition which was filed three weeks ago in CIV 15-1018.

As set forth in my order denying the petition for a writ of error coram nobis in CIV 15-1018, Doc. 3, petitioner is not entitled to challenge his convictions and sentence through a writ of error coram nobis.

Now, therefore,

IT IS ORDERED that the petition, Doc. 17, for a writ of error coram nobis is denied.

DATED this 17<sup>th</sup> day of March, 2015.

BY THE COURT:

*[Signature: Charles B. Kornmann]*  
CHARLES B. KORNMAN  
United States District Judge